

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA**

**UNITED STATES OF AMERICA,**

**Plaintiff,**

**VS.**

**IVAN RODRIGUEZ and  
FRANCISCO M. HERRERA-CASTRO,**

## Defendants.

**8:09CR348**

## ORDER

This matter is before the court on the motion to continue by defendant Ivan Rodriguez (Rodriguez) (Filing No. 29). Rodriguez seeks a continuance of the trial scheduled for December 28, 2009, and to extend the pretrial motions deadline. Rodriguez's counsel represents that counsel for the government has no objection to the motion. Rodriguez has submitted an affidavit in accordance with paragraph 9 of the progression order whereby Rodriguez consents to the motion and acknowledges he understands the additional time may be excludable time for the purposes of the Speedy Trial Act (Filing No. 30).

The pretrial motion deadline expired on November 18, 2009. The motion sets forth no valid reason to extend this deadline. The motion to extend the pretrial motion deadline will be denied.

Upon consideration, the motion to continue trial will be granted and trial will be continued as to all defendants.

**IT IS ORDERED:**

1. Rodriguez's motion to extend the pretrial motion deadline (Filing No. 29) is denied.
2. Rodriguez's motion to continue trial (Filing No. 29) is granted.
3. Trial of this matter **as to all defendants** is re-scheduled for **January 25, 2010**, before Chief Judge Joseph F. Bataillon and a jury. The ends of justice have been served by granting such motion and outweigh the interests of the public and the defendants

in a speedy trial. The additional **time** arising as a result of the granting of the motion, i.e., the time between **December 10, 2009 and January 25, 2010**, shall be deemed **excludable** time in any computation of time under the requirement of the Speedy Trial Act for the reason that defendants' counsel require additional time to adequately prepare the case. The failure to grant additional time might result in a miscarriage of justice. 18 U.S.C. § 3161(h)(8)(A) & (B).

DATED this 10th day of December, 2009.

BY THE COURT:

s/Thomas D. Thalken  
United States Magistrate Judge